

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NUMBER 05-002
v.	:	DATE FILED:
TIMOTHY MENTZER JOSEPH J. HUSS, JR.	:	VIOLATIONS: 18 U.S.C. § 371 (Conspiracy - 1 count) 17 U.S.C. § 506(a)(1) and 18 U.S.C. § 2319(b)(1) (Criminal infringement of a copyright - 2 counts)

SUPERSEDING INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

(Conspiracy)

1. At all times relevant to this Information, computer software, computer games, music, and videos were protected from unauthorized copying by the United States copyright laws.

2. From on or about January 2003, up to and including on or about October 31, 2003, in the Southern District of Iowa and elsewhere, the defendant

JOSEPH J. HUSS, JR.,

together with other persons, both known and unknown to the United States Attorney, conspired to infringe the copyright of copyrighted works for purposes of commercial advantage and private financial gain, by reproducing and distributing during a 180-day period ten or more copies of one or more copyrighted works, which had a total retail value of more than \$2,500, in violation of Title 17, United States Code, Section 506(a)(1) and Title 18, United States Code,

Section 2319(b)(1).

HOW THE CONSPIRACY OPERATED

3. It was a part of the conspiracy that defendant JOSEPH J. HUSS, JR. and others known and unknown to the United States Attorney were participants in the “warez scene” -- that is, individuals and organized groups of individuals (“warez groups”) who engage in the duplication, modification, reproduction, and distribution of copyright protected software over the Internet, in violation of federal copyright law.

4. It was further part of the conspiracy that defendant, JOSEPH J. HUSS, JR. and his co-conspirators operated a private warez FTP server which contained thousands of copies of pirated software for the exclusive use of group members. FTP sites – also known as FTP servers – are computers connected to the Internet that serve as large storage facilities for software or other digital files which, in turn, may be copied and downloaded by users of the site through the FTP protocol. FTP is a communication protocol for transferring files between computers connected to the Internet. In the warez scene, FTP sites are most often used to store and crack copyright protected software and other digital media and to host, collect, distribute, and trade illegal warez.

5. The warez FTP server operated by JOSEPH J. HUSS JR. and his co-conspirators was used to store copyright protected software and other digital media and to host, collect, distribute, and trade illegal warez. This site was not accessible to the general public. Access to the warez FTP site was controlled through a variety of security mechanisms. For example, a user is typically required to log on to the FTP site using a screen name and password approved by one of the system administrators for the FTP site. In most cases, the final level of

authentication, which was done automatically, required the user to attempt access to the FTP warez server only from a specific, authorized Internet Protocol (or “IP”) address previously supplied to the system administrator(s). Failure to meet any of the security requirements resulted in a denial of access to the FTP server.

6. It was further part of the conspiracy that Defendant, JOSEPH J. HUSS, JR. and his co-conspirators divided responsibilities and functions in the operation and maintenance of the warez FTP server. First, a small group of members served as “system administrators” and were ultimately responsible for the construction and daily maintenance of the warez FTP server as well as the recruitment of other groups and individual members. Second, the “system administrators” managed a group of approximately thirty (30) individuals, identified as “VIP” members, who contributed computer hardware and/or money which was used to construct and maintain the warez FTP site. Third, groups and individuals were recruited as “couriers” who agreed to provide pirated software to the warez FTP site and, in return for this service, were granted downloading privileges. Specific “quota” agreements linked the amount of software available for download to the amount of material uploaded by each individual group or member.

7. Members of the wares FTP server used screen names when they communicated over the Internet to avoid giving away their true identities.

8. Defendant, JOSEPH J. HUSS, JR. participated in the conspiracy by acting as a “site-op,” or site-operator, for the warez FTP server that he and others constructed and maintained. As “site-op” for the warez FTP site, defendant HUSS assisted in the daily management of the computer Internet site that provided group members with a library of

copyright protected software. In exchange for serving as a site-op, defendant HUSS obtained access to additional files located on that FTP site for downloading for his own use and benefit.

9. Timothy Mentzer, charged elsewhere in this Superseding Information, participated in the conspiracy and served as a “courier” for the warez FTP server. Mentzer had access to several large warez sites in which he enjoyed “leech” status which permitted him to download an indeterminable amount of pirated material. As a “courier” for the warez FTP site at issue in the instant case, Mentzer obtained copies of pirated software from other warez sites and transferred or uploaded new pirated software to the warez FTP server for use by defendant HUSS and other group members.

OVERT ACTS

In furtherance of the above conspiracy, and in order to effectuate the objects thereof, the following overt acts, among others, were committed within the Southern District of Iowa and elsewhere:

1. From on or about January 2003 through on or about October 31, 2003, defendant JOSEPH J. HUSS, JR. and other conspirators established and maintained a warez FTP site in the District of New Jersey for the purpose of uploading, storing, and downloading pirated software. In total, over the course of the above conspiracy, the conspirators acquired approximately 13,000 pirated copyright protected works which were uploaded to the warez FTP server in the District of New Jersey and available for reproduction by any of the groups 150 members.

2. From on or about January 2003 through on or about October 31, 2003, defendant JOSEPH J. HUSS, JR. frequently communicated with approximately 30 “VIP” members who provided computer hardware and/or money which were used to build and maintain the warez

FTP site. In return for providing computer hardware and/or money, defendant HUSS provided “VIP” members with access to the warez FTP site’s library of pirated software.

3. From on or about January 2003 through on or about October 31, 2003, defendant JOSEPH J. HUSS, JR. served as one of the site’s “administrators” responsible for recruiting warez “couriers” who would be provided access to the warez FTP site in return for contributing or “uploading” pirated software to the warez FTP site.

4. From on or about January 2003 through on or about October 31, 2003, defendant JOSEPH J. HUSS, JR. and other conspirators operated and maintained a computer system known as an “Internet Relay Chat” (IRC) for the purpose of communicating with one another and to assist in accessing and managing the warez FTP site.

5. From on or about August 16, 2003 through March 29, 2004, Timothy Mentzer uploaded or transferred approximately 856 pirated software titles to the warez FTP server where they were stored for reproduction and duplication by other group members.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

(Criminal Infringement of a Copyright)

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

From in or about January 2003 and continuing through on or about October 31, 2003, in the Southern District of Iowa and elsewhere, defendant

JOSEPH J. HUSS, JR.,

during a 180-day period willfully reproduced and distributed at least ten infringing copies of one or more copyrighted works, with a total retail value of more than \$2,500, for purposes of private financial gain.

In violation of Title 17 United States Code, Section 506(a)(1), and Title 18 United States Code, Section 2319(b)(1).

COUNT THREE

(Criminal Infringement of a Copyright)

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

From in or about August 16, 2003 and continuing through on or about April 21, 2004, in the Southern District of Iowa and elsewhere, defendant

TIMOTHY MENTZER,

during a 180-day period willfully reproduced and distributed at least ten infringing copies of one or more copyrighted works, with a total retail value of more than \$2,500, for purposes of private financial gain.

In violation of Title 17 United States Code, Section 506(a)(1), and Title 18 United States Code, Section 2319(b)(1).

PATRICK L. MEEHAN
United States Attorney